

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
PANAMA CITY DIVISION**

**RAMON ARMAS BORROTO, JR.,**

**Plaintiff,**

**vs.**

**Case No. 5:04cv165-RH/WCS**

**OFFICER L. McDONALD,  
OFFICER H.A. PATE,  
SERGEANT McKENZIE,  
and NURSE DONNA KENT,**

**Defendants.**

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**ORDER**

After Defendants' summary judgment motion was denied, doc. 79, the parties were given the opportunity to obtain further discovery prior to the trial.<sup>1</sup> When the deadline for conducting discovery had passed, doc. 87, the parties were required to advise the Court as to the status of discovery. Doc. 88. Defendants filed a status report on the deadline, doc. 89, and Plaintiff filed a response, doc. 90, and motion, doc. 91, a few days later. Defendants have now responded to Plaintiff's motion as well. Docs. 92 and 93.

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<sup>1</sup> Plaintiff's amended complaint, doc. 19, makes a demand for a jury trial.

Defendants have concluded discovery and are ready to proceed to the pretrial stage. Doc. 89. Plaintiff advises that Defendants did not provide him with some unspecified discovery.<sup>2</sup> Doc. 90. In response, Defendants state that Plaintiff's response is in the nature of a "very general motion to compel." Doc. 92. Defendants are correct.

Plaintiff fails to provide any specifics as to what he seeks, what was not given to him but was ordered to be provided, or that he sought to confer with Defendants to obtain anything prior to filing the response. If the response *were* to be construed as a motion to compel, it would be deficient. There is no specific identification, no certification of a good faith effort, and it is beyond the deadline for discovery. The response will not be construed as a motion, however. It is reviewed just as Plaintiff presented it, a response to the prior court order.

Plaintiff also filed a "motion for access to witness." Doc. 91. Plaintiff states that he has a witness, another inmate, who is currently located in another correctional institution. *Id.* Plaintiff reports that he "sought permission to correspond with his witness," but the request was denied. Plaintiff wants this Court to "issue an order directing the foregoing prisons (Santa Rosa, Florida State Prison) to allow the plaintiff to correspond with his witness and vice versa." *Id.* Plaintiff concludes this request by stating that he "expects the same attorney to client privileges in that whatever is said concerning the case to remain confidential." *Id.*

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<sup>2</sup> Plaintiff does state that he was able to "hear the audio tapes concerning the inspector general's weak investigation" and was able "to review his medical file." Doc. 90. Plaintiff also was given a "copy of the inmate roster for" the relevant date. Aside from that, Plaintiff contends Defendants did not comply "with any other requests for discovery." *Id.*

Defendants argue that in 2003, Plaintiff receive a disciplinary report for "mail violations" and one for "attempt to conspire." Doc. 93. Defendants note that the person with whom Plaintiff wants to correspond has also receive a disciplinary report for "attempt to conspire." *Id.* Defendants assert that Plaintiff was present (by telephone) when this inmate witness was deposed, and Plaintiff participated in the deposition. *Id.*

It appears, therefore, that Plaintiff has had an opportunity to discuss this witness's information and knowledge. Important security precautions prevent Plaintiff's request being granted. Plaintiff is not entitled to confidential mail privileges with another prisoner. Thus, this motion will be denied.

As discovery is over, this case should now be referred to the assigned district judge for scheduling a trial in accordance with his trial schedule.

Accordingly, it is

**ORDERED:**

1. Plaintiff's motion for access to witness, doc. 91, is **DENIED**.
2. The Clerk of Court is directed to refer this file to the assigned district judge for setting this case for trial.

**DONE AND ORDERED** on March 5, 2007.

s/ William C. Sherrill, Jr.  
**WILLIAM C. SHERRILL, JR.**  
**UNITED STATES MAGISTRATE JUDGE**